

**ROYAL CIVIL SERVICE COMMISSION
BHUTAN CIVIL SERVICE EXAMINATION (BCSE) 2021
EXAMINATION CATEGORY: TECHNICAL**

PAPER III: SUBJECT SPECIALISATION PAPER FOR LAW

Date	: October 31, 2021
Total Marks	: 100
Writing Time	: 150 minutes (2.5 hours)
Reading Time	: 15 Minutes (prior to writing time)

GENERAL INSTRUCTIONS:

- Write your Registration Number clearly and correctly on the Answer Booklet.
 - The first 15 minutes is being provided to check the number of pages of Question Paper, printing errors, clarify doubts and to read the instructions. You are NOT permitted to write during this time.
 - This paper consists of **TWO SECTIONS**, namely SECTION A & SECTION B:
 - SECTION A** has two parts: Part I - 50 Multiple Choice Questions
 Part II - 4 Short Answer QuestionsAll questions under SECTION A are COMPULSORY.
 - SECTION B** consists of two Case Studies. Choose only **ONE** case study and answer the questions of your choice.
- All answers should be written on the Answer Booklet provided to you. Candidates are not allowed to write anything on the question paper. If required, ask for additional Answer Booklet.
 - All answers should be written with correct numbering of Section, Part and Question Number in the Answer Booklet provided to you. Note that any answer written without indicating the Section, Part and Question Number will NOT be evaluated and no marks will be awarded.
 - Begin each Section and Part in a fresh page of the Answer Booklet.
 - You are not permitted to tear off any sheet(s) of the Answer Booklet as well as the Question Paper.
 - Use of any other paper including paper for rough work is not permitted.
 - You must hand over the Answer Booklet to the Invigilator before leaving the examination hall.**
 - This paper has **12 printed pages**, including this instruction page.

GOOD LUCK

SECTION A

PART I: Multiple Choice Questions [50 marks]

Choose the correct answer and write down the letter of your chosen answer in the Answer Booklet against the question number e.g. 51 (a). Each question carries ONE mark. Any double writing, smudgy answers or writing more than one choice shall not be evaluated.

1. Vienna Conference of 1961 is related to
 - a) Diplomatic intercourse and immunities.
 - b) Prisoners-of-war.
 - c) Recognition of states.
 - d) None of the above.

2. What is an 'internationally wrongful conduct'?
 - a) An internationally wrongful conduct is any conduct that is considered wrongful by a State.
 - b) An internationally wrongful conduct is a conduct considered wrongful by the Security Council.
 - c) An internationally wrongful conduct consists of an action or omission attributable to the State, which constitutes a breach of an international obligation of the State.
 - d) An internationally wrongful conduct is a conduct considered wrongful by the General Assembly.

3. In international law, when are countermeasures illegal?
 - a) All countermeasures are illegal.
 - b) Countermeasures are illegal only when it is in violation of a peremptory norm of international law.
 - c) Countermeasure is illegal only when it is disproportionate.
 - d) Countermeasures are illegal when *inter alia* are disproportionate or in violation of a peremptory norm of international law.

4. What kind of passage does qualify as “innocent passage”?
 - a) A vessel’s passage is “innocent” when it is owned by a Member of UN.
 - b) A vessel’s passage is considered “innocent” where it is not prejudicial to the peace, good order or security of the coastal State.
 - c) A vessel’s passage is “innocent” when sent by a State to spy on the activities of its enemy State.
 - d) No passage of a vessel can be “innocent” irrespective of its reason for entry.

5. The doctrine (also known as Tobar Doctrine) first enunciated by Carlos Tobar is related to
 - a) Non-recognition of governments.
 - b) Recognition of States.
 - c) Recognition of insurgents.
 - d) Recognition of protectorate.

6. The League Number of Judges of International Court of Justice is
 - a) Nine
 - b) Twelve
 - c) Fifteen
 - d) None of the above.

7. The doctrine of “double criminality” means
 - a) The alleged crime which extradition is being sought must be criminal in both the demanding and the requested countries.
 - b) The alleged criminal of whose extradition is being sought must be prosecuted in both the demanding and the requested countries.
 - c) The person who is extradited must be tried in both the states and may be punished only in one state.
 - d) The person who is extradited must be tried in one state and must be extradited to the requesting state.

8. The principle of *rebus sic stantibus* relates to
 - a) A state cannot use force.
 - b) There is no crime without law.
 - c) Fundamental change of circumstances.
 - d) Mutual agreement must be respected.

9. When was first Bhutanese Ambassador to Australia appointed?
 - a) 2 July 2020
 - b) 2 July 1990
 - c) 2 July 2021
 - d) 2 July 2018

10. What is the meaning of international legal personality?
 - a) It means that only States are considered subjects of international law.
 - b) It means having rights and duties under international law and a capacity to enforce these by or against the relevant actor.
 - c) It means that an entity may challenge the authority of States.
 - d) It is a term that is meant to denote legal, as opposed, to physical persons under international law.

11. What are the criteria for statehood under the 1933 Montevideo Convention?
 - a) It requires that the entity in question is not an aggressor and that it is peaceful.
 - b) It requires recognition by the majority of other nations.
 - c) It requires a permanent population, a defined territory, a government and a capacity to enter into foreign relations.
 - d) It requires stable and indissoluble borders as well as recognition.

12. What is the declaratory theory of recognition?
 - a) Recognition is determinate for the existence of statehood.
 - b) Recognition is simply declaratory of statehood but not determinate.
 - c) Recognition is merely a declaration of interest.
 - d) Recognition requires a declaration by the newly created State.

13. During the Conference of Parties (COP15) in Copenhagen in December 2009, Bhutan made the declaration to
- remain carbon negative.
 - reduce carbon emission by 30%.
 - remain carbon neutral.
 - maintain at least 60% of its land under forest cover.
14. Bhutan presented its candidature for a seat as a non-permanent member of the UN Security Council for the term 2013-2014 in
- 2000
 - 2013
 - 2012
 - 1999
15. Can countries rely on their domestic law as an excuse to violate their obligations under international law?
- Domestic law always prevails over international law.
 - Only customary international law prevails over domestic law.
 - Obligations under international law prevail over domestic law.
 - Constitutional obligations always prevail over obligations under international law.
16. Who is entitled to request an advisory opinion of the ICJ?
- Only United Nations General Assembly may request advisory opinion.
 - Only Security Council may request advisory opinion.
 - The General Assembly and the Security Council may request advisory opinions on any legal question, as well as 'other organs of the United Nations and specialized agencies, if authorized by the General Assembly.'
 - All organs of UN and specialized agencies irrespective of the authorization of the General Assembly.
17. What is the legal nature of the Universal Declaration of Human Rights (UDHR)?
- The UDHR is a UN convention on human rights.
 - The UDHR is a UN General Assembly resolution.
 - It is a UN treaty enforceable against all States.
 - It is a bilateral treaty on human rights.
18. What is the fundamental premise of monist theory?
- Monism posits that international law is superior to domestic laws.
 - Monism posits that international and domestic law are part of the same legal order.
 - Monism posits that domestic laws are superior to international law.
 - Monism posits that domestic and international law never clash.
19. What does the doctrine of incorporation suggest in respect of treaties?
- The doctrine of incorporation requires that all treaties undergo legislative transformation before they become domestic law.
 - The doctrine of incorporation does not require any further action at the domestic level
 - The doctrine of incorporation treats treaties as inferior to domestic law.
 - The doctrine of incorporation suggests that ratified treaties automatically pass into the sphere of domestic law.

20. What is a 'treaty' according to the Vienna Convention on the Law of Treaties (VCLT)?
- Treaties are all agreements concluded between States, international organizations and non-State entities.
 - Treaties are agreements concluded between States in written form and governed by international law.
 - Treaties are both the written and oral agreements between States.
 - Treaties are agreements concluded between States in written form governed either by international or domestic law.
21. Which one of the following is not a source of international law?
- Constitution of sovereign states
 - Treaties
 - International conventions
 - International customs
22. Which of the following is true about the position held by Her Majesty Gyaltsuen Jetsun Pema Wangchuck?
- The President of the Bhutan Red Cross Society
 - The Ozone Ambassador of the United Nations Environment Program
 - The Patron of the Environment
 - All the above
23. The Treaty (the Pact of Paris) signed on August 27, 1928 is also known as
- the Kellogg-Briand Pact.
 - the Anti-War Treaty of Non-Aggression and Conciliation.
 - the Locarno Treaty.
 - Geneva Convention.
24. The Former Opposition Leader Dr. Pema Gyamtsho became the Director General of _____ in 2020 as the first Director General from the Region.
- BIMSTEC
 - SAARC
 - ICIMOD
 - FAO
25. The latest revision to Indo-Bhutan Friendship Treaty of 1949 was made in
- 2008
 - 2007
 - 2010
 - None of the above
26. International humanitarian law is also known as
- Law of armed conflicts.
 - Public international humanitarian law.
 - Private international law.
 - None of the above.

27. What is difference between *jus in bello* and *jus ad bellum*?
- Jus in bello* is law in war and *jus ad bellum* is law on the use of force.
 - Both *jus in bello* and *jus ad bellum* are same.
 - Jus in bello* is law on the use of force and *jus ad bellum* is law in war.
 - None of the above.
28. What is the purpose of sovereign immunity?
- The purpose of immunity is to protect foreign Heads of State from embarrassment.
 - Immunity protects a State from being invaded by another.
 - Immunity shields States from being sued in the courts of other States.
 - The purpose of immunity is to offer impunity in respect of all crimes.
29. Is the unlawful homicide committed by Minister of country X abroad an act *jure imperii* or *jure gestionis*?
- Such conduct is a public act (*jure imperii*).
 - Such conduct never attracts immunity.
 - Such conduct is a private act (*jure gestionis*).
 - Such conduct is a public act but is shielded by immunity.
30. Which State ordinarily exercises jurisdiction in respect of crimes committed on board vessels?
- The coastal State
 - The flag State
 - All States enjoy such jurisdiction
 - The International Tribunal for the Law of the Sea
31. Is piracy under international (*jure gentium*) law subject to universal jurisdiction?
- Piracy *jure gentium* is subject to flag State jurisdiction.
 - Piracy *jure gentium* is subject to universal jurisdiction.
 - Piracy *jure gentium* is subject to port State jurisdiction.
 - Piracy *jure gentium* is subject to nationality-based jurisdiction.
32. What does it mean for a State to be sovereign?
- Sovereignty means being recognised by all other States.
 - Sovereignty means to be able to enter into treaties and join the UN.
 - Sovereignty means freedom to determine one's own affairs without external interference.
 - Sovereignty means possessing the right to defend oneself.
33. Mr. Tenzin Lekphell is the current Secretary General of BIMSTEC, and the term of the Secretary General is
- Five years
 - Two years
 - Ten years
 - Three years

34. How treaties are to be interpreted?
- Treaties are to be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.
 - Treaties are to be interpreted only in accordance with the ordinary meaning of their terms.
 - Treaties are to be interpreted in accordance with the intention of the parties, as evidenced in the preparatory works of the treaty.
 - Treaties are to be interpreted only in light of its object and purpose.
35. When is a reservation considered as invalid under the law of treaties?
- A reservation is invalid when the majority of the State parties objects to it.
 - A reservation is invalid only when an international tribunal says so.
 - A reservation is invalid only when is incompatible with a peremptory norm of international law (*jus cogens*).
 - A reservation is invalid when it is incompatible with the object and purpose of the treaty.
36. What is 'material breach' of the treaty?
- 'Material breach' is a ground for the invalidation of a treaty.
 - 'Material breach' is the repudiation or a significant violation of the treaty and serves as a ground for the unilateral termination of the treaty.
 - 'Material breach' is an insignificant violation of a treaty.
 - 'Material breach' is a significant violation of the treaty which can never lead to the termination of the treaty.
37. What is required for a general rule of customary law to be formed?
- Only general, widespread and consistent practice on the part of States is required.
 - The consistent practice of few States is sufficient.
 - The legal conviction that a certain practice of a State is in accordance with international law is the most significant requirement.
 - Both the elements of widespread and consistent State practice and of the *opinio juris* are required.
38. Where do we find the 'general principles of law recognized by civilized nations' (article 38 ICJ Statute)?
- We look for established principles of law recognized only among the most civilised nations.
 - We look for established principles of law, which are common to all major legal systems.
 - We look for general principles of international law recognized by international courts and tribunals.
 - We look for general principles of law recognized by all nations.
39. What is the value of the Resolutions of the UN General Assembly in terms as a 'source' of international law?
- GA Resolutions are considered as additional sources of international law and thus binding upon States.
 - GA Resolutions are equivalent to treaties.
 - GA Resolutions reflect always customary law.
 - GA Resolutions are considered as material source, in the sense that they may enunciate statements of customary law.

40. Is there any hierarchy or priority among States under international law?
- Yes, the States that were the founding members of the United Nations are vested with more powers and authority.
 - Yes, the Permanent Five Members of the UN Security Council (UK, USA, France, Russia, China) are in a superior position than the other States.
 - No, all States are considered equal as sovereign States (the principle of sovereign equality, enshrined in article 2, para 1 UN Charter).
 - Whether there will be any hierarchy among States is a matter of each international organization to decide.
41. Which rule of *jus cogens* was the first to be accepted explicitly as such by the ICJ?
- The prohibition of the use of force.
 - The prohibition of torture.
 - The prohibition of genocide.
 - The principle of self-determination.
42. What is the obligation of the peaceful settlement of disputes?
- It is an obligation of conduct, that is, States have an obligation to try to resolve their disputes through peaceful means. This does not entail an obligation to resolve their disputes.
 - Entails the obligation to resolve their disputes and to resolve through peaceful means.
 - It is an obligation of results, that is, States are under a strict obligation to resolve their disputes as soon as possible.
 - None of the above
43. Is there any hierarchy or priority among the various methods of peaceful settlement of disputes?
- Yes, there is hierarchy – starting with negotiation to ICJ.
 - Legal methods prevail over other peaceful means.
 - Yes, attempt settlement through one informal means and if fails resolve through ICJ.
 - There is no hierarchy among these methods and the choice belongs to the disputing States.
44. Would a reservation to the definition of torture in the ICCPR be acceptable in contemporary practice?
- This is an unacceptable reservation because it contravenes the object and purpose of the ICCPR.
 - Yes, because a State may adopt its own definition of torture.
 - Yes, because a State can become party to a treaty only by its consent.
 - This is an unacceptable reservation because it the definition of torture is universally accepted.
45. Was the use of armed force permitted prior to the United Nations Charter?
- Not permitted in any circumstances.
 - Permitted without any restriction.
 - Armed force was permitted subject to few restrictions.
 - Permitted if authorized by the international court.

46. What is the meaning of “armed attack” in Article 51 UN Charter?
- Includes all kinds of threat.
 - “Armed attack” includes all high intensity instances of armed force.
 - “Armed attack” includes only attack involving nuclear weapons.
 - Includes only attacks with air force.
47. What is the meaning of proportionality in relation to the options available to the victim State in relation to use of force?
- The victim State may use all kinds of forces against aggressor State.
 - The victim State may not use any forces against the aggressor State.
 - The victim State may use only force(s) authorized by the Security Council.
 - The victim State may only use such means and force as it is necessary to defeat the aggressor.
48. What is the meaning of ‘secondary rules’ in the law of international responsibility?
- Secondary rules are the rules that govern the legal consequences arising from a breach of the primary rules, that is, of the international obligations of the States.
 - Secondary rules are the rules that govern the help find the secondary rules.
 - Secondary rules are the rules that govern the international obligations of the States.
 - All of the above.
49. What is the function of the contiguous zone?
- The contiguous zone is a zone in which the coastal State is permitted to prevent and punish infringements of customs, fiscal, immigration or sanitary laws.
 - The contiguous zone functions as security zone of the coastal State
 - The contiguous zone is a zone in which the coastal State may explore and exploit its mineral resources.
 - The contiguous zone is a zone in which the coastal State safeguards its archaeological and historical objects.
50. As per the Constitution of the Kingdom of Bhutan, who may promote goodwill and good relations with other countries by receiving state guests and undertaking state visits to other countries?
- The Prime Minister
 - The Foreign Minister
 - The Druk Gyalpo
 - All of the above

PART II – Short Answer Questions [20 marks]

This part has 4 Short Answer Questions. Answer ALL the questions. Each question carries 5 marks.

1. “Climate change is a human rights issue.” Explain with at least three examples of how climate change impacts human rights.
2. In light of the relevant UN General Assembly resolutions and other evidence, describe Bhutan’s involvement in adoption of “the pursuit of happiness as a fundamental human goal and a universal goal” by the international community.
3. Explain different techniques used for peaceful settlement of international disputes in light of the relevant source(s) of international law.
4. Are there differences or similarities between public international law and private international law? Explain using relevant examples.

SECTION B: Case Study [30 marks]

Choose either CASE I OR CASE II from this section. Each case study carries 30 marks. Mark for each sub-question is indicated in the brackets.

CASE I

Umailing is a Buddhist country landlocked between Nubling to the North and Lholing to the South. Umailing has very good and long-standing friendship with Lholing. While Umailing and Nubling don’t have official diplomatic relations, they have been very successful in maintaining peace at their international borders. However, Nubling and Lholing share very unstable political relationship and border confrontations between the two are very frequent. Therefore, both Nubling and Lholing consider Umailing as of a strategic importance for their security.

As the result of Covid-19 surge in Lholing, Umailing closed its borders to the South to stop importation of Covid-19 into Umailing. However, Umailing is dependent on the imports of essentials goods and commodities including rice, edible oils, cooking gas, petroleum, and others. The border closure led to the extortion and bullying of importers and exporters from Umailing by officials and citizens of Lholing at the border leading to huge losses to Umailing both economically and financially as its economic is hugely dependent on free trade between Lholing and Umailing.

Umailing was gearing for a national election. The ruling party (UNP-Umailing National Party) and (UPP-Umailing People’s Party) are contesting in the general round. UNP in its manifesto promised to initiate the establishment of diplomatic relation and open its borders to trade with Nubling. Such promises alarmed Lholing. Suddenly, anonymous social media users campaigning against UNP and supporting UPP (promising to further the friendly relationship between Umailing and Lholing)

increased drastically. Lholing not only stopped exports of essential goods into Umailing, but it also started to infiltrate Umailing's social media groups to plant suspicions against UNP, a party supported by majority of the people of Umailing. There were instances where the websites, official Facebook page and social media groups operated by UNP are hacked and fake pages and groups disguised as of UNP are created to misinform the people of Umailing.

Umailing considers such cyber-attacks as a huge security concern. The Special Committee established by Umailing to investigate the unusual cyber attacks found that Lholing has recruited hackers and many individuals to join Umailing based social media groups or to create anonymous social media accounts disguising as the people of Umailing. The investigation also found that attempts are made to attack banking system, public service system and many other technology-based systems on which Umailing is dependent as one of the most 'wired' nation—in other words, Umailing is most digitalised country.

In light of the above security threat and means used by Lholing, Umailing is preparing to respond. You are an Attorney at the Office of the Attorney General of Umailing, who is an expert on international law and international cyber security issues. Advise Umailing on the following:

1. Whether cyber-attacks constitute a prohibited "use of force" under the Article 2(4) of the UN Charter? (10 marks)
2. Can Umailing use military force in response (as self-defense) to Lholing's cyber-attacks against Umailing? (10 marks)
3. What other possible redresses or remedies can Umailing seek within the framework of international law? (10 marks)

CASE II

In this Digital Age, the cross-border commerce and business is inevitable. The Government of Umailing entered into a contract with INFITI - a company based in Nubling for development of National Digital Identity (NDI) System. Umailing and INFITI chose to be governed by the laws of Singapore when it concerns the matters of the validity and the enforcement of this contract. Further, Umailing and INFITI signed arbitration agreement making Singapore International Arbitration Centre (SIAC) the competent jurisdiction to arbitrate matters relating to the contract in question.

INFITI failed to complete the work within agreed time and works completed partially were also of the poor quality. All negotiations between Umailing and INFITI failed, therefore, Umailing sought the intervention of SIAC as per the arbitration agreement signed between Umailing and INFITI. SIAC issued arbitral award in favour of Umailing. However, INFITI refused to honour the arbitral award stating that the contract itself was illegal as any dealings in foreign countries must be approved by the board of directors of the company according to the law of Nubling.

Umailing is seeking to enforce arbitral award in the competent court of Nubling as enforcement through Umailing was not possible due to INFITI's refusal to respond to the court's order in Umailing. Seeking court intervention in Nubling would turn to be very expensive if not successful. Therefore, Umailing is seeking your advice as an expert in international commercial arbitration. Both Umailing and Nubling are parties to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention 1958). Advise on the following:

1. Can the court in Nubling refuse to enforce the arbitral award for the reason described in the facts of the case? Why? (7 Marks)
2. Describe in what circumstances can arbitral award be refused recognition or enforcement under the New York Convention 1958? (10 Marks)
3. Assuming that the court in Nubling refuses to enforce the arbitral award for no justifiable reasons, advise what recourses Umailing can take within the framework of international law? Your advice must be based on relevant international treaties and the principles of international customary law. (13 Marks)

TASHI DELEK